

Department of Energy

§ 707.2

in order for such officials, both company and union, employee, and non-employee. In addition, persons not so designated may be investigated for clearance where the company and the union advise DOE manager that their established relationships contemplate access for such persons.

§ 706.31 Clearance of conciliators and arbitrators.

Conciliators and arbitrators who are regularly assigned to DOE cases may be processed for “Q” clearance at the discretion of the local DOE manager, either on the manager’s initiative or at the request of a contractor.

§ 706.32 Security indoctrination of non-employee representatives.

All collective bargaining representatives, company and union, who are to have access to Restricted Data, will be given appropriate security indoctrination.

§ 706.40 Final responsibility of DOE in security matters.

On all matters of security at all Government-owned, privately operated DOE installations, DOE retains absolute and final authority, and neither the security rules nor their administration are matters for collective bargaining between management and labor, insofar as DOE security regulations affect the collective bargaining process, the security policies and regulations will be made known to both parties. To the fullest extent feasible DOE will consult with representatives of management and labor in formulating security rules and regulations that affect the collective bargaining process.

PART 707—WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

Subpart A—General Provisions

Sec.

707.1 Purpose.

707.2 Scope.

707.3 Policy.

707.4 Definitions.

Subpart B—Procedures

707.5 Submission, approval, and implementation of a baseline workplace substance abuse program.

707.6 Employee assistance, education, and training.

707.7 Random drug testing requirements and identification of testing designated positions.

707.8 Applicant drug testing.

707.9 Drug testing as a result of an occurrence.

707.10 Drug testing for reasonable suspicion of illegal drug use.

707.11 Drugs for which testing is performed.

707.12 Specimen collection, handling, and laboratory analysis for drug testing.

707.13 Medical review of results of tests for illegal drug use.

707.14 Action pursuant to a determination of illegal drug use.

707.15 Collective bargaining.

707.16 Records.

707.17 Permissible actions in the event of contractor noncompliance.

AUTHORITY: 41 U.S.C. 701 *et seq.*; 42 U.S.C. 2012, 2013, 2051, 2061, 2165, 2201b, 2201i, and 2201p; 42 U.S.C. 5814 and 5815; 42 U.S.C. 7151, 7251, 7254, and 7256; 50 U.S.C. 2401 *et seq.*

SOURCE: 57 FR 32656, July 22, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 707.1 Purpose.

The Department of Energy (DOE) promulgates this part in order to protect the environment, maintain public health and safety, and safeguard the national security. This part establishes policies, criteria, and procedures for developing and implementing programs that help to maintain a workplace free from the use of illegal drugs. It applies to DOE contractors and subcontractors performing work at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, and to individuals with unescorted access to the control areas of certain DOE reactors. The procedures include detection of the use of illegal drugs by current or prospective contractor employees in testing designated positions.

§ 707.2 Scope.

(a) This part applies to the following contracts with DOE, at sites owned or controlled by DOE which are operated

§ 707.3

10 CFR Ch. III (1–1–09 Edition)

under the authority of the Atomic Energy Act of 1954, as amended:

(1) Management and operating contracts; and

(2) Other contracts or subcontracts with a value of \$25,000 or more, and which have been determined by DOE to involve:

(i) Access to or handling of classified information or special nuclear materials;

(ii) High risk of danger to life, the environment, public health and safety, or national security; or

(iii) Transportation of hazardous materials to or from a DOE site.

(b) Individuals described in § 707.7 (b) and (c) will be subject to random drug testing; to drug testing as a result of an occurrence, as described in § 707.9; and to drug testing on the basis of reasonable suspicion, as described in § 707.10.

(c) Applicants for employment in testing designated positions will be tested in accordance with § 707.8.

§ 707.3 Policy.

It is the policy of DOE to conduct its programs so as to protect the environment, maintain public health and safety, and safeguard the national security. This policy is advanced in this rule by requiring contractors and subcontractors within its scope to adopt procedures consistent with the baseline requirements of this part, and to impose significant sanctions on individuals in testing designated positions or with unescorted access to the control areas of certain DOE reactors, who use or are involved with illegal drugs.

§ 707.4 Definitions.

For the purposes of this part, the following definitions apply:

Collection Site Person means a technician or other person trained and qualified to take urine samples and to secure urine samples for later laboratory analysis.

Confirmed Positive Test means, for drugs, a finding based on a positive initial or screening test result, confirmed by another positive test on the same sample. The confirmatory test must be by the gas chromatography/mass spectrometry method.

Counseling means assistance provided by qualified professionals to employees, especially, but not limited to those employees whose job performance is, or might be, impaired as a result of illegal drug use or a medical-behavioral problem; such assistance may include short-term counseling and assessment, crisis intervention, referral to outside treatment facilities, and follow-up services to the individual after completion of treatment and return to work.

Drug Certification means a written assurance signed by an individual with known past illegal drug involvement, as a condition for obtaining or retaining a DOE access authorization, stating that the individual will refrain from using or being involved with illegal drugs while employed in a position requiring DOE access authorization (security clearance).

Employee Assistance means a program of counseling, referral, and educational services concerning illegal drug use and other medical, mental, emotional, or personal problems of employees, particularly those which adversely affect behavior and job performance.

Hazardous Material means any material subject to the placarding requirements of 49 CFR 172.504, table 1, and materials presenting a poison-inhalation hazard that must be placarded under the provisions of 49 CFR 172.505.

Illegal Drug means a controlled substance, as specified in Schedules I through V of the Controlled Substances Act, 21 U.S.C. 811, 812. The term “illegal drugs” does not apply to the use of a controlled substance in accordance with terms of a valid prescription, or other uses authorized by law.

Management and Operating Contract means an agreement for the operation, maintenance, or support, on behalf of the Government, of a Government-owned or controlled research, development, special production, or testing establishment wholly or principally devoted to one or more major programs of DOE.

Medical Review Officer (MRO) means a licensed physician, approved by DOE to perform certain functions under this part. The MRO is responsible for receiving laboratory results generated by an employer's drug testing program, has knowledge of illegal drug use and